IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

MONDAY, THE 3RD DECEMBER 2007 / 12TH AGRAHAYANA 1929

WP(C).No. 33191 of 2007(B)

PETITIONERS:

1. MANIKANTAN, S/O.KARUNAKARAN NAIR, AGED 29, RESIDING AT AYATHIKKONAM PUTHEN VEEDU, PULAYANARKOTTAH, THIRUVANANTHAPURAM.

2. M.J.BIJU, S/O.MANI, AGED 35 YEARS, RESIDING AT MANCHERI HOUSE, PLAVARATHALA, THURUVIKKAL, THIRUVANANTHAPURAM.

3. N.SANTHOSH BABU, S/O.NARAYANAN NAIR, AGED 28 YEARS, RESIDING AT KUNNIL VEEDU, MANCHADI DESOM, MEDICAL COLLEGE P.O., THIRUVANANTHAPURAM - 11.

4. MAHESH, S/O.KARUNAKARAN, AGED 37 YEARS, RESIDING AT E.R.A-38, VADAKKEVILAKOM, MEDICAL COLLEGE P.O., THIRUVANANTHAPURAM - 11.

5. VINOD, S/O.KUNJUMON, AGED 27 YEARS, RESIDING AT CHENTHILODE, MEDICAL COLLEGE P.O. THIRUVANANTHAPURAM.

6. A.V.VINOD, S/O.APPU, AGED 27 YEARS, PLAVILA, JAI NAGAR, MEDICAL COLLEGE P.O., THIRUVANANTHAPURAM - 11.

7. ULLAS BABU, S/O.NARAYANAN NAIR, AGED 30 YEARS, RESIDING AT KUNNIL VEEDU, MANCHADI DESOM, MEDICAL COLLEGE, THIRUVANANTHAPURAM - 11.

8. ANIL KUMAR, S/O.VISWAMBHARAN, MANCHADI PANAYIL VEEDU, THURUVIKKAL, MEDICAL COLLEGE P.O., THIRUVANANTHAPURAM - 11.

9. T.S.ABHILASH, S/O.THANKAMONY, AGED 29 YEARS, RESIDING AT ASHA BHAVAN, ALUMMOODU VEEDU, THIRUVANANTHAPURAM - 11.

10. SABU, S/O.CHELLAPPAN, KUNNINPURATHU
VEEDU, CHENTHILODE, THIRUVANANTHAPURAM.

BY ADV. SRI.G.P.SHINOD
SRI.RAM MOHAN.G.

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY ITS
SECRETARY, DEPARTMENT OF HOME AFFAIRS,
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE COMMISSIONER OF POLICE,
THIRUVANANTHAPURAM CITY,
OFFICE OF THE COMMISSIONER OF POLICE,
VAZHUTHACAUD, THIRUVANANTHAPURAM.

3. THE CIRCLE INSPECTOR OF POLICE, MEDICAL COLLEGE
POLICE CIRCLE, OFFICE OF THE CIRCLE INSPECTOR OF POLICE,
MEDICAL COLLEGE P.O., THIRUVANANTHAPURAM - 695011.

4. THE SUB INSPECTOR OF POLICE, MEDICAL COLLEGE
POLICE STATION, MEDICAL COLLEGE P.O.,
THIRUVANANTHAPURAM - 695 011.

5. THE MEDICAL COLLEGE TAXI DRIVERS WELFARE
UNION REPRESENTED BY ITS SECRETARY,
MEDICAL COLLEGE P.O, THIRUVANANTHAPURAM - 695 011.

6. THE SECRETARY, MEDICAL COLLEGE TAXI DRIVERS
WELFARE UNION, MEDICAL COLLEGE P.O.,
THIRUVANANTHAPURAM - 695 011.

7. THE CORPORATION OF THIRUVANANTHAPURAM
REP. BY ITS SECRETARY,OFFICE OF THE CORPORATION
OF THIRUVANANTHAPURAM,OPPOSITE MUSEUM
COMPOUND JUNCTION, THIRUVANANTHAPURAM.

R1 -R4 BY GOVT. PLEADER SRI.P.A.SALIM
R5 & R6 BY ADV. SRI.SUMAN CHAKRAVARTHY
R7 BY ADV. SRI.N.NANDAKUMARA MENON

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 03/12/2007, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

APPENDIX IN WPC 33191/2007

PETITIONER'S EXHIBITS:

EXT. P1 TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONERS BEFORE THE THIRD RESPONDENT

EXT. P2 TRUE PHOTOCOPY OF THE ORDER OF THIS HON'BLE COURT IN CMP 53609/99 IN OP 53609/99

EXT. P3 TRUE PHOTOCOPY OF THE LICENCE OF THE FIRST PETITIONER

EXT.P3(a) DO. DO. OF THE SECOND PETITIONER

EXT. P3(b) DO. DO. OF THE THIRD PETITIONER

EXT. P3(c) DO. DO. OF THE FOURTH PETITIONER

EXT. P3(d) DO. DO. OF THE SEVENTH PETITIONER

EXT. P3(e) DO. DO. OF THE NINETH PETITIONER

EXT. P3(f) DO. DO. OF THE TENTH PETITIONER

EXT. P4 TRUE PHOTOCOPY OF THE ACCOUNTS OF THE FIFTH RESPONDENT UNION FOR THE PERIOD FROM 19.3.06 TO 9.5.07

EXT. P5 A REPLY DT. 27.9.07 GIVEN BY THE THIRD RESPONDENT UNDER RTI ACT

EXT. P6 A TRUE PHOTOCOPY OF THE SALE LETTER ISSUED BY G.S.RAMESH KUMAR TO THE FOURTH PETITIONER

RESPONDENT'S EXHIBITS:

EXT.R6(a) TRUE COPY OF PHOTOGRAPHS

EXT.R6(b) TRUE COPY OF THE AGREEMENT DT. 15.3.00

EXT.R6(c) TRUE COPY OF A MEMBERSHIP APPLICATION DT. 10.12.99

/TRUE COPY

K.Balakrishnan Nair &
K.P.Balachandran, JJ.

W.P.(C)No. 33191 of 2007 B

JUDGMENT

Balakrishnan Nair, J.

The petitioners are Taxi Drivers. They propose to operate their taxis from the Medical College Junction, Thiruvananthapuram, it is submitted. The fifth respondent is a trade union of the taxi drivers there. The sixth respondent is its Secretary. According to the petitioners, those taxi drivers, who are not members of the fifth respondent union, are not permitted to operate their vehicles from the Medical College Junction. The petitioners attempted to become the members of that union. But, the membership fee claimed was Rs.15,000/-. Since the petitioners were obstructed from operating their vehicles from the above said junction, they have moved the police. Since the police did not interfere and remove the

obstruction, this writ petition was filed seeking the following relief:

> "issue a writ of mandamus or any other appropriate writ or order or direction commanding respondents 1 to 3 to accord sufficient protection to the lives and taxis of the petitioners to operate their taxi services from the taxi stand near Medical College Hospital, Thiruvananthapuram."

2. The sixth respondent has filed a counter affidavit denying all the allegations against respondents 5 and 6. They say, they are not causing any obstruction to the petitioners. According to the fifth respondent, if police protection is granted to the petitioners, they will abuse the same and on the strength of the order, they will indulge in illegal activities, including the sale of their turn in the queue, that is formed by the taxi drivers to avoid unnecessary

competition.

3. The learned Government Pleader, upon instructions, submitted that the fifth respondent have 84 members now. At present, there is space for parking 50 vehicles only.

4. If there is any approved taxi stand at the Medical College Junction, the petitioners, even though they are not members of the fifth respondent union, are also entitled to park their vehicles and operate the same without being obstructed by the members of the fifth respondent union. If any member of the fifth respondent union is causing obstruction in operating the vehicles of the petitioners on the ground that they are not members of their union, the petitioners shall inform the police. In that event, the police shall afford adequate protection for removing the obstruction. But, this direction will not enable the petitioners to operate their vehicles illegally or in violation of any regulatory measures that may be introduced

regarding parking of the vehicles by the police or the motor vehicles authorities. The powers of the statutory authorities to restrict or regulate parking and operation of the vehicles will not be affected by this order. In other words, this direction is issued only to prevent the obstruction that is caused to the petitioners by the members of the fifth respondent union, if they are otherwise eligible to operate from there.

With the above directions, the writ petition is disposed of.

(K.Balakrishnan Nair, Judge)

3rd December, 2007

(K.P.Balachandran, Judge)

tkv